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Synthes Sales, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FRANCES WEBB, an individual,
Plaintiff,

vs.

SYNTHES USA SALES, LLC, a
Delaware Limited Liability Company;
DEPUY SYNTHES SALES, INC., a
Massachusetts Corporation; and DOES I-
X inclusive,
Defendant.

Case No. 3:20-cv-00196-MMD-CLB

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES**

(SECOND REQUEST)

Plaintiff Frances Webb and DePuy Synthes Sales, Inc. (“DePuy”) stipulate to extend the deadlines to complete discovery pursuant to Fed. R. Civ. P. 26, LR IA 6-1, and LR 26-3 as follows:

I. DISCOVERY COMPLETED

1. Plaintiff made its initial disclosures on May 4, 2020 and supplemented those disclosures on June 3, 2020.

2. DePuy made its initial disclosures on March 30, 2020, and supplemented them on February 17, 2021.

3. A Scheduling Order was issued by the Court on December 23, 2020 (ECF 17), which identified discovery deadlines in the case.

4. DePuy propounded a first set of document requests to Plaintiff on April 16, 2020, to which Plaintiff responded on July 15, 2020.

5. DePuy propounded a first set of interrogatories to Plaintiff on April 16, 2020, to which Plaintiff responded on July 17, 2020.

6. DePuy propounded a second set of document requests to Plaintiff on December 1, 2020, to which Plaintiff responded on January 21, 2021.

7. DePuy took the deposition of Plaintiff on November 11, 2020.

8. Plaintiff made her disclosure of retained and non-retained experts on March 5, 2021.

9. DePuy took the depositions of Plaintiff's treating surgeons and non-retained experts Dr. Althausen and Dr. Kasier on September 14, 2021 and December 3, 2021, respectively.

II. DISCOVERY REMAINING TO BE COMPLETED

Only defendants' expert disclosures and Plaintiff's depositions of those experts remain to be completed.

1 **III. REASONS WHY DISCOVERY WAS NOT COMPLETED**

2 This is the second requested extension of discovery. The parties have
3 largely concluded fact discovery. Plaintiff disclosed her experts and Defendants
4 have taken these experts' depositions. However, the depositions of plaintiffs' non-
5 retained experts were substantially delayed by DePuy's objection to those
6 surgeons' hourly rate for depositions and the surgeons' refusal to appear for
7 deposition unless DePuy paid these physicians \$2,500 per hour for deposition time.

8 Dr. Althausen's deposition was initially scheduled for April 27, 2021,
9 but subsequently vacated by DePuy due to the fee issue. As the Court is aware,
10 DePuy filed a motion (ECF No. 23) to resolve this issue. The Court granted that
11 motion in an order issued June 24, 2021 (ECF No. 26). Scheduling of the
12 depositions was not being pursued while the Motion was pending. Since that time,
13 scheduling difficulties with the treating surgeons delayed the depositions for
14 several months. DePuy was able to finally take the deposition of Dr. Althausen on
15 September 14, 2021 and Dr. Kaiser on December 3, 2021, although the latter was
16 past the October 18, 2021 discovery deadline. The deposition of Dr. Kaiser was
17 scheduled to occur earlier on November 12, 2021, but his emergency call schedule
18 caused him to miss his noticed deposition. Dr. Kaiser's depositions could not be
19 rescheduled until December 3, 2021 when his deposition was finally taken.

20 Under the parties' original stipulated discovery plan, which the Court
21 adopted on April 22, 2020 (ECF No. 11) and extended by amendment on
22 December 23, 2020 (ECF No. 17), the completion of these depositions was to
23 occur before the deadline for DePuy to make its expert disclosures. Given these
24 circumstances, the parties submit that good cause exists for modifying these

deadlines. The delays in completing this discovery were not caused by the parties' inaction or lack of diligence, but rather by fee payment and schedule issues by treating surgeons that were outside of the parties' control.

IV. CURRENT DEADLINES AND PROPOSED NEW DEADLINES

Event	Current Deadline	Proposed Deadline
Close of Discovery	October 18, 2021	May 23, 2022
Defendants' Expert Disclosures	June 15, 2021	January 24, 2022
Rebuttal Expert Disclosures	September 13, 2021	April 25, 2022
Dispositive Motion Deadline	November 15, 2021	June 20, 2022
Joint Pretrial Order	December 15, 2021	July 20, 2022

The parties will complete depositions of DePuy's experts by March 21, 2022 and complete depositions of any rebuttal experts by May 23, 2022.

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ORDER

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: January 4, 2022